

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CHARLES M. COBB,

Plaintiff,

v.

Case No. 04-74400

CORRECTIONAL MEDICAL  
SERVICES (CMS), DEPARTMENT  
OF CORRECTIONS (MDOC), et al.,

HON. AVERN COHN

Defendants.

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**ORDER ADOPTING REPORTS AND RECOMMENDATIONS  
AND  
GRANTING DEFENDANT CMS'S MOTION TO DISMISS  
AND  
GRANTING DEFENDANT MDOC'S MOTION TO DISMISS  
AND  
DISMISSING CMS's AND MDOC's MOTIONS TO DISMISS FOR FAILURE TO PROSECUTE  
AS MOOT  
AND  
DENYING PLAINTIFF'S REQUEST FOR INJUNCTIVE RELIEF**

This is a pro se prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff claims that defendants rendered inadequate medical care and were deliberately indifferent to his serious medical needs, particularly regarding the need for reconstructive surgery on his foot. The matter was referred to a magistrate judge for all pre-trial proceedings.

Correctional Medical Center (CMS) filed a motion to dismiss for failure to exhaust and a motion to dismiss for failure to prosecute. The Michigan Department of Corrections (MDOC) filed a motion to dismiss on the grounds of Eleventh Amendment immunity and a motion to dismiss for failure to prosecute. In the complaint, plaintiff

requested injunctive relief in the form of restraining order requesting the immediate provision of medical services, including reconstructive surgery on his foot.

On February 7, 2006, the magistrate judge issued a report and recommendation (MJRR) recommending that CMS's motion to dismiss for failure to exhaust be granted, that the MDOC's motion to dismiss on the grounds of immunity be granted, and the motions to dismiss for failure to prosecute be dismissed as moot. No objections have been filed. Accordingly, the MJRR of February 06, 2006 is ADOPTED as the findings and conclusions of the Court. CMS's motion to dismiss is GRANTED, the MDOC's motion to dismiss is GRANTED, CMS's and the MDOC's motion to dismiss for failure to prosecute are DISMISSED AS MOOT.

On February 14, 2006, the magistrate judge issued a second MJRR recommending that plaintiff's request for injunctive relief be denied. No objections have been filed. Accordingly, the MJRR of February 14, 2006 is ADOPTED as the findings and conclusions of the Court. Plaintiff's request for injunctive relief is DENIED.

SO ORDERED.

Dated: March 9, 2006

s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, March 9, 2006, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager  
(313) 234-5160